

Assembly Bill No. 986

CHAPTER 276

An act to amend Sections 3070, 3075, 3078, and 3152 of, and to add Section 3007 to, the Business and Professions Code, relating to optometry, and making an appropriation therefor.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 986, Eng. Optometrists: regulation.

Existing law, the Optometry Practice Act, creates the State Board of Optometry and makes it responsible for the registration and regulation of optometrists. Under the act, the board assesses various fees that are deposited in the State Optometry Fund, and the revenues in that fund, other than penalty and fine revenues, are continuously appropriated to the board. The act requires an optometrist to notify the board of the address of his or her practice and to report to the board any change in the practice's location. The act makes a violation of its provisions a crime.

This bill would require an optometrist to maintain a patient's records for a minimum of 7 years from the date he or she completes treatment of a patient and at least until a minor patient becomes 19 years of age. The bill would exempt an optometrist from notifying the board of the address of his or her temporary practice, as defined by the board, at specified settings and would require the optometrist to carry evidence of licensure while practicing in those settings and to include the address of his or her primary practice and the temporary practice setting on a receipt provided to the patient. The bill would increase the amount of certain fees assessed by the board and would also specify the amount of various other fees assessed by the board. Because the bill would thereby increase the amount of revenue in the State Optometry Fund that is continuously appropriated, it would make an appropriation.

Because the bill would also specify additional requirements under the Optometry Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 3007 is added to the Business and Professions Code, to read:

3007. An optometrist shall retain a patient's records for a minimum of seven years from the date he or she completes treatment of the patient. If the patient is a minor, the patient's records shall be retained for a minimum of seven years from the date he or she completes treatment of the patient and at least until the patient reaches 19 years of age.

SEC. 2. Section 3070 of the Business and Professions Code is amended to read:

3070. (a) Before engaging in the practice of optometry, each licensed optometrist shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of optometry and, also, of any changes in his or her place of practice. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.

(b) A licensed optometrist is not required to provide the notification described in subdivision (a) if he or she engages in the temporary practice of optometry in any of the following settings:

(1) A facility licensed by the State Department of Public Health.

(2) A public institution, including, but not limited to, a school, a community college, and federal, state, and local penal and correctional facilities.

(3) A mobile unit that is operated by a governmental agency or by a nonprofit or charitable organization.

(4) The home of a patient who is not ambulatory.

(5) The practice location of another optometrist that has been reported to the board pursuant to this section if the other optometrist is ill or on a temporary leave or for any other reason approved by the board. The exception under this paragraph is limited to a total period at all temporary practice locations of seven calendar days during a 30-day period and 84 days during a calendar year.

(c) Notwithstanding Section 3075, an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall carry and present upon demand evidence of his or her licensure but shall not be required to post his or her current license or other evidence of current license status issued by the board.

(d) In addition to the information required by Section 3076, a receipt issued to a patient by an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall contain the address of the optometrist's primary practice location and the temporary practice location where the services were provided.

(e) "Temporary practice" shall be defined by the board for purposes of this section.

SEC. 3. Section 3075 of the Business and Professions Code is amended to read:

3075. An optometrist shall post in each location where he or she practices optometry, in an area that is likely to be seen by all patients who use the office, his or her current license or other evidence of current license status issued by the board. The board may charge a fee as specified in Section 3152 for each issuance of evidence of current licensure.

SEC. 4. Section 3078 of the Business and Professions Code is amended to read:

3078. (a) It is unlawful to practice optometry under a false or assumed name, or to use a false or assumed name in connection with the practice of optometry, or to make use of any false or assumed name in connection with the name of a person licensed pursuant to this chapter. However, the board may issue written permits authorizing an individual optometrist or an optometric group or optometric corporation to use a name specified in the permit in connection with its practice if, and only if, the board finds to its satisfaction all of the following:

(1) The place or establishment, or the portion thereof, in which the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at that place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants. However, if the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply.

(2) The name under which the applicant or applicants propose to operate is in the judgment of the board not deceptive or inimical to enabling a rational choice for the consumer public and contains at least one of the following designations: “optometry” or “optometric.” However, if the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply. In no case shall the name under which the applicant or applicants propose to operate contain the name or names of any of the optometrists practicing in the community clinic.

(3) The names of all optometrists practicing at the location designated in the application are displayed in a conspicuous place for the public to see, not only at the location, but also in any advertising permitted by law.

(4) No charges that could result in revocation or suspension of an optometrist’s license to practice optometry are pending against any optometrist practicing at the location.

(b) Permits issued under this section by the board shall expire and become invalid unless renewed at the times and in the manner provided in Article 7 (commencing with Section 3145) for the renewal of licenses issued under this chapter.

(c) A permit issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit, other than under paragraph (4) of subdivision (a), is no longer being fulfilled by the individual optometrist, optometric corporation, or optometric group to whom the permit was issued. Proceedings

for revocation or suspension shall be governed by the Administrative Procedure Act.

(d) If the board revokes or suspends the license to practice optometry of an individual optometrist or any member of a corporation or group to whom a permit has been issued under this section, the revocation or suspension shall also constitute revocation or suspension, as the case may be, of the permit.

SEC. 5. Section 3152 of the Business and Professions Code is amended to read:

3152. The amount of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

(a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars (\$275).

(b) The fee for renewal of an optometric license shall not exceed five hundred dollars (\$500).

(c) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).

(d) The fee for a branch office license shall not exceed seventy-five dollars (\$75).

(e) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).

(f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).

(g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).

(h) The application fee for a certificate to treat lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).

(i) The application fee for a certificate to treat primary open angle glaucoma shall not exceed fifty dollars (\$50).

(j) The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).

(k) The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).

(l) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).

(m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).

(n) The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).

(o) The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).

(p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that

may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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